

**Rule 109. Application for Leave to Answer or Reply****Rule 109.01 Requirement of Affidavit of Merits**

Any application for leave to answer or reply after the time limited by statute or rule, or to open a judgment and for leave to answer and defend, shall be accompanied by a copy of the answer or reply, and an affidavit of merits and be served on the opposite party.

**Rule 109.02 Contents of Required Affidavits**

In an affidavit of merits made by the party, the affiant shall state with particularity the facts relied upon as a defense or claim for relief, that the affiant has fully and fairly stated the facts in the case to counsel, and that the affiant has a good and substantial defense or claim for relief on the merits, as the affiant is advised by counsel after such statement and believes true, and the affiant shall also give the name and address of such counsel.

An affidavit shall also be made by a lawyer who shall state that from the showing of the facts made by the party to the lawyer believes that such party has a good and substantial defense or claim for relief on the merits.

**Cross Reference:** Minn. R. Civ. P. 4.043, 6.02, 59.03, 59.05, 60.02.

***Task Force Comment - 1991 Adoption***

*This rule is derived from Rule 22 of the Code of Rules for the District Courts.*